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# Appeal Decision

Hearing Held on 17 and 18 January 2023

Site visit made on 18 January 2023

**by Laura Renaudon LLM LARTPI Solicitor**

**an Inspector appointed by the Secretary of State**

**Decision date: 20 February 2023**

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**Appeal Ref: APP/N0410/C/21/3276123**

**The Beeches, Swan Road, Iver, Bucks SL0 9LA**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Elizabeth Cash against an enforcement notice issued by South Bucks District Council.
- The enforcement notice, numbered EN/18/2280/EN1, was issued on 6 April 2021.
- The breach of planning control as alleged in the notice is *Without planning permission: the material change of use of the Land to a mixed (sui generis) use comprising residential and a caravan park for residential purposes by the stationing [of] caravans ("the Unauthorised Use")*.
- The requirements of the notice are to (1) cease the Unauthorised Use of the Land; (2) remove from the Land all caravans (including mobile homes), any associated bases, skirts or screens and other domestic paraphernalia brought on to the Land in connection with the Unauthorised Use; and (3) remove from the Land all debris and materials arising as a result of compliance with the steps above.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (d), (f) and (g) of the Town and Country Planning Act 1990 as amended.

**Summary Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.**

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## Procedural Matters

1. An earlier planning application for similar development, PL/19/3321/FA, had resulted in a substantial number of objections being submitted to the Council. In the light of the dearth of representations made on the present appeal I asked the Council to review the notifications that had been given pursuant to rule 4 of the Enforcement Hearings Procedure Rules and to give further notifications.
2. Consequently the originally scheduled hearing date was postponed and the hearing opened on 17 January 2023 following time for the submission of representations.
3. A representation was received from the owner of the adjoining land to the north, to the effect that the plan attached to the enforcement notice meant that the notice applied to part of that land. The parties agreed that the plan was inaccurate, and I accepted an amended plan from the Council shortly following the hearing that omitted part of the original land identified. I am satisfied that, by substituting the plan, the neighbouring landholding is not affected by the notice and thus no prejudice arising from any failure of service (or otherwise) arises.

## **Main Issues**

4. I indicated to the parties in advance of the hearing that I would consider a 'hidden' ground (b) appeal in addition to the grounds cited above. The appellant contends that the use of the site has not changed since before 1999. The appellant's case was unclear as to whether the site has been in a 'sui generis' use whereby the use of caravans has borne some relation to an office building, or whether it is instead contended that the caravans are ancillary to the dwellinghouse on the site. What is clear is that the appellant disputes the description of the use as alleged in the notice; this is the main issue under ground (b). Whether or not the use (as I find it to be, whether or not as alleged in the notice) requires planning permission is the main issue under ground (c). Finally, in relation to the 'legal' grounds of appeal I shall consider whether the use has subsisted for a sufficient period of time as to be immune from enforcement action: this is the main issue under ground (d).
5. The Council's reasons for issuing the notice give rise to the main issues of the Green Belt, the effect on the character and appearance of the area, and biodiversity. The appellant refers to a lack of sites in the area and to the personal circumstances of the site's occupants. Therefore, under ground (a) I consider the main issues to be:
  - (i) Whether the development is inappropriate in the Green Belt, and the effect of the development on the openness and the purposes of the Green Belt;
  - (ii) Any other harm and/or policy conflicts arising, particularly the effects of the development on the character and appearance of the site and the area, and in relation to biodiversity; and
  - (iii) Whether any harm to the Green Belt and any other harm is clearly outweighed by other considerations so as to amount to very special circumstances justifying the development. Such other considerations particularly include the need for and supply of traveller sites and the availability of alternative sites, and the personal circumstances of the occupants of the site, to include consideration of the best interests of any children and any human rights arising.
6. Further main issues concern the reasonableness of the requirements of the notice and the period specified for compliance with it, to include consideration of a temporary permission. These are the main issues arising under grounds (f) and (g), should the other grounds of appeal fail.

## **Reasons**

### **Legal Grounds**

7. It is appropriate to take all the legal grounds together, as the parties' cases require me to make several findings of fact that will then inform the analysis of the legal grounds raised.
8. A Statement of Common Ground was received at the hearing. This identified a number of previous permissions relevant to the site, and agreed that the site is previously developed land. Areas of disagreement included the pre-existing lawful use, with the Council considering that it comprised a residential use only, and the appellant contending for a mixed use including that of an office.

9. The entire appeal site was previously part of the grounds of the large detached house to the south, 'The Shire'. In 2007 a lawful development certificate was obtained for the use of a detached building to the north (Building 1, for the purposes of this appeal) as a residential dwelling house, within the present appeal site. A small area of land to the west of Building 1 was shown on the 2007 plans as being occupied in association with it, but excluding the remainder of the present appeal site.
10. Nonetheless at some point the entirety of the appeal site came to be occupied separately from The Shire. I was informed that the sale of part took place in September 2019, although a letter from a former owner indicates that a land sale took place in September 2018. Photographs from 2015 show a separate boundary treatment in place at least to the south of Building 2 (the demarcation, if any, to the eastern part of the site being obscured by overhanging vegetation). I did not understand the parties to dispute that the appeal site has as a whole been in a separate unit of occupation from The Shire for very many years, possibly dating back to around the time of the 2007 LDC application, notwithstanding that that application claimed only a small part of the land as the residential curtilage.
11. Thus it does not appear to me that, spatially, the development forming the subject of the appeal has created a new unit of occupation vis-à-vis The Shire. Rather the question is whether it has changed the use of the land area that has been the longstanding unit of occupation. Either way, the appeal development concerns land that was previously used as residential garden.
12. Although disagreeing in the Statement of Common Ground, the appellant's agent agreed at the hearing that the 'office' building (Building 4) was likely to have been in an ancillary use to the principal dwellinghouse use of Building 1. Although it appears that former occupiers of Building 1 may have run a business partly from home, I understood from what I was told at the hearing that the site was not an official place of business. There is insufficient evidence (bearing in mind the onus and standard of probability of proof required from the appellant) to allow me to find that the former use of the site was a mixed use. It appears, consistently with the planning history, to have been in a residential use with all the other buildings on the site having been occupied and used in ways consistent with the primary residential use of Building 1, lawful since 2007, as a single dwellinghouse; that is, a use falling within Class C3 of the General Permitted Development Order.
13. A further question arising is whether any mobile homes have previously been occupied for primary residential purposes on the site. A letter from the former owner, Mr Hunter, states that a mobile home was occupied on the site from 2006 until the sale of the land in September 2018. The occupation was said to have been by a family member and, although the letter refers to 'a residential facility, separate from the main dwelling', no details are given as to how the site may have fallen into separate units of occupation.
14. On site, the appellant's agent pointed out to me the evidence of an awning attached to Building 1 under which the mobile home was said to have been sited. This is suggestive of an incidental use. Other documents in the case, particularly a statutory declaration of April 2007, indicate that the occupation of the site in 2006 was not by Mr Hunter or, presumably, any of his family but by the then-applicant for the LDC, Ms Thompson.

15. Thus there is insufficient evidence to permit me to conclude that the land, or any part of it, was in use as (or similarly to) a caravan site before its purchase by the present appellant.
16. I turn then to what the present use of the site (or rather, the use at the time the notice was issued) actually is, and whether this differs materially from the former lawful C3 use.
17. The parties agreed in their Statement of Common Ground that another building on the site, Building 2, is being occupied as a single dwellinghouse. However, the appellant's agent demurred from this agreement at the hearing, suggesting that the building is in fact being used as a 'dayroom' in association with the adjoining touring caravan. Another touring caravan is associated with Building 1, and on my site visit I observed that the caravan was being occupied together with Building 1 by a single household: both the caravan and Building 1 together appear to form the relevant residential unit. Another mobile home is situated towards the eastern end of the site, again occupied separately. No 'plots' or curtilage areas are delineated separately on the site.
18. Whilst occupying mobile homes for a purpose incidental to a C3 residential dwellinghouse use within the same planning unit might not constitute development requiring planning permission, here I find that the Council's allegation is the correct one. The residential use of the land has 'intensified' and is not restricted to a C3 residential use but involves the use of caravans as well as bricks and mortar accommodation. Together the site houses at least three families (with a proposal for four under the deemed application) and I find that this intensified residential use of the site amounts to a materially different use from the former C3 single dwellinghouse. It is unnecessary to delineate precisely the relationship between the (former) C3 dwelling, or dwellings, and the caravans because I find there to be an overall residential use, comprising the mixed use of 'bricks and mortar' residential and the caravan site that is alleged by the notice, and which is materially distinct from the former C3 use by a single family.
19. That therefore disposes of the appeal on grounds (b) and (c): the allegation in the notice is correct, and planning permission is required for the material change of use. As to the ground (d) appeal, it is clear that the material change of use has taken place since September 2018, only 2½ years prior to the issue of the notice. The use is therefore not immune from enforcement action being taken, and this ground of appeal also fails.

## **The deemed planning application**

### **The Green Belt**

20. The parties agree that the appeal site forms previously developed land, amounting to land which is or was occupied by a permanent structure, including its curtilage, and not being excluded from that definition found in the National Planning Policy Framework ('the Framework') whether because land in a built-up area or for any other reason.
21. The site contains two sizeable buildings that are due to be removed if permission is given. They are Buildings 3 and 4, comprising a garage and what is described by the appellant as an office building. Building 4 in particular is

- considerably dilapidated and appears incapable of beneficial use. Nonetheless both buildings remain on site.
22. The Framework provides that developments including material changes of use will not be inappropriate in the Green Belt if they preserve its openness and do not conflict with the purposes of including land within it. This requires an assessment of the development against the openness and purposes of the Green Belt in order to establish whether there is a principled objection to it. Planning policy for Traveller Sites ('PPTS') nonetheless stipulates that all Traveller sites in the Green Belt are inappropriate development.
  23. Although I have concluded that the site is in the mixed use alleged by the Council, and not 'purely' as a Traveller site, I nonetheless consider that it is appropriate to consider it against the PPTS, given that the aim of the appeal is to provide accommodation for Traveller families. Therefore, as was not disputed by the parties to the appeal, I find that it is necessarily inappropriate development given what the PPTS has to say. The Framework advises that inappropriate development is by definition harmful to the Green Belt, requiring the attribution of substantial adverse weight, and should not be approved except in very special circumstances.
  24. Assessing its actual impacts on the openness and purposes of the Green Belt, it is apt to take account of what will be removed and what limitations would apply to any development permitted. The parties are agreed that, through the imposition of relevant planning conditions, any permission would provide for no more than five caravans on the site, of which no more than three would be statics. It would also provide for the removal of Buildings 3 and 4.
  25. The removal of permanent buildings (not in themselves said to have been development appropriate to the Green Belt at the time of their construction, or in their subsequent use) would go a long way to minimising the spatial impact of the development on the openness of the Green Belt: by cubic metre (albeit caravans are not permanent buildings) the impact would likely be comparable. Neither the existing buildings nor the proposed (or existing) caravans are consistent with the Green Belt purpose of safeguarding the countryside from encroachment. However, by 'intensifying' the residential use of the site, turning it from a site occupied by a small single family dwellinghouse to one accommodating a proposed four families, would inevitably affect, by the increase in domestic effects and comings and goings, that purpose to a greater degree than was pre-existing before the development took place.
  26. In summary on this issue, there are factors that go a long way to minimising the impact on the Green Belt. The land is previously developed, is in a pre-existing residential use, and a permission would result in the demolition of two large buildings. Therefore I find that, in addition to its inappropriateness by definition, the development creates marginal further harm to the openness of the Green Belt and conflicts with one of the purposes of including land within it; that is to safeguard the countryside from encroachment, with some albeit limited further harm to the Green Belt arising as a result.
  27. As is required by the Framework, I attribute substantial weight to this harm to the Green Belt.

## Other harm

28. Other harms are also identified by the Council, specifically in relation to the character and appearance of the area, including the Colne Valley Park, and in relation to what are considered to be inevitable negative impacts on local biodiversity. Core Policy 4 of the South Bucks Local Plan of 2011 applies to applications for new Traveller Sites, and its criteria include that developments should not result in a detrimental impact on the local environment, including biodiversity and the landscape, and should be compatible with surrounding land uses and not be visually intrusive.
29. Observing the aerial photographs of the site taken in 2015 and again in 2019 and 2020, it is clear that some works have been carried out against which the Council have not sought to enforce. Vegetation has been cleared (some of which appears to have been growing on the adjoining site to the north) and the previously verdant appearance of the eastern part of the site has been lost, being replaced by gravel or hardstanding. The appeal site is now largely devoid of vegetation. Nonetheless the enforcement notice is directed only at the use, alleging only a material change of use and requiring only the removal of the caravans and associated items. Thus, although the changes appear to have largely arisen as the result of developing the site, I am unable to attribute all of any harm that has arisen to the matters raised by the enforcement notice; or, put another way, if the notice is upheld then it will not require the reinstatement of the land to its former appearance. In the absence of any different notice, therefore, some of the changes to the site must be assumed to be permanent whatever the outcome of this appeal.
30. In relation to the appearance of the site, mindful that any permission would result in the requirement to demolish the two buildings, the development would result in limited harm to the appearance of the area. Overall the mobile homes and caravans would not take up appreciably (if any) more space than what is currently there. Their appearance would be an improvement on Building 4 in particular. Although Building 4 is largely hidden from Swan Lane at present by Building 3, it is significantly taller than any mobile home would be, and developing the site in the way proposed would result in shorter structures less visible from the site's boundaries. At the site visit I was informed that a condition requiring different entrance gates to the site to be provided would be acceptable to the appellant.
31. The development's impact on the character of the area however arises out of its use as well as its physical attributes. Swan Lane is a private road running north from the public house at the bottom of the lane, which adjoins the high street. The appeal site forms one of a few residential or commercial developments on the eastern side of the lane, away from the village centre. These comprise two large dwellings set in large plots to the south of the appeal site, with a further large building (identified on maps as Delaford Park) being visible from the lane but accessed from the main road, and with a horticultural and environmental contracting business to the north. Signs at the bottom of the lane, where the eastern side is bordered by a tree belt, indicate the requirement for HGV access at all times. To the west of the lane, a church adjoins the car park of the public house and beyond that to the north is the publicly accessible meadow land owned and managed by the parish council.

32. North of the horticultural business on the eastern side, the lane leads into open fields upon which deer were roaming at the time of my site visit. A few further large houses lie to the west of the lane further north, and there is extensive boundary fencing, but north of the horticultural business the land generally takes on a distinctly rural character.
33. Thus the appeal site is sandwiched between housing and the horticultural business. Its use for residential purposes is not out of character in itself, being its longstanding former use, and is compatible with the surrounding land uses, but the intensity of the use is not commensurate with that of the adjoining properties. As the representation on behalf of local residents points out, the amount of development on this relatively small site would result in the coverage of the site in caravans and associated domestic paraphernalia which would lead to some visual clutter. Therefore it results in some detriment to the character of the area by reason of the relative density of the occupation of the site and the inevitable traffic associated with that.
34. Core Policy 9 of the Core Strategy relates to the natural environment, providing that the landscape characteristics and biodiversity resources of South Bucks will be conserved and enhanced. Measures include not permitting new development that would cause harm, unless essentially unavoidable and upon securing appropriate mitigation or compensation. The urban/rural fringe is to be improved, by reference to measures in the Colne Valley Park Action Plan.
35. Whilst no specific measures in the Action Plan have been brought to my attention, I accept the Council's broad point that the intensification of the residential use on the site is likely to have some adverse impacts on biodiversity interests, and I accept too that an intensified residential use in this rural location is unlikely to result in overall improvements to the urban/rural fringe, despite the benefit of removing the two buildings.
36. Although if permission is refused the site might be left to regenerate, with some establishment of biodiversity gains, there is no requirement or certainty that this would happen. If permission is granted, however, although the residential occupation of the site would continue, there is an opportunity to remedy the loss of biodiversity through the imposition of a relevant planning condition. In the round therefore I attribute moderate weight against the development on these matters.

### **Other matters**

37. In addition to the matters put forward by the Council, representations were made by or on behalf of local residents. At the hearing I was referred to the Ivers Neighbourhood Plan, very recently the subject of a referendum in its favour. The local member spoke at the hearing to the effect that the development conflicts with the Neighbourhood Plan, is inappropriate in the Green Belt, adversely affects the nearby Conservation Area and the Colne Valley Park, does not provide adequate facilities for its occupants, and is detrimental to the local environment by reason of the additional traffic on the lane, a public right of way as well as a private road, and with concerns about drainage and sewage and waste disposal.
38. These concerns largely reflected those made in writing on behalf of local residents, also supporting elements of the Council's case.

39. The relevant Conservation Area is the Iver Village Conservation Area, identified at Plan J of the Neighbourhood Plan. It lies to the south and east of the appeal site, taking in the public house and adjoining buildings to the west at the bottom of Swan Lane, but excluding the church and any land north of that, and taking in Bridgefoot House to the east of Delaford Park. It lies some distance from the appeal site and I could not discern any intervisibility. I do not consider that the development has any effect, visual or otherwise, on the Conservation Area or on its setting and thus my statutory duties in that regard are not engaged.
40. Whilst the site was only partly developed at the time of my site visit, I saw that there was mains drainage and access to water and other necessary services. I do not consider that the living conditions for the site occupants are unsatisfactory. The residents' case in relation to overflowing bins and water is acknowledged to be anecdotal, and it appears to me that these matters can be managed satisfactorily.
41. The Neighbourhood Plan does not itself make provision for (or reference to) Traveller site developments. Policy IV6 identifies Swan Lane as providing a 'key opportunity' in the Active Travel Network, and the policy seeks to enhance the functionality of the network and to avoid development that harms the functioning or connectivity of the network. Additionally, policy IV13 requires development proposals to make a positive contribution to the Colne Valley Park, including the provision of opportunities for countryside recreation.
42. Although acknowledging that the intensification of the residential use of this site is likely to lead to some additional traffic on Swan Lane, both vehicular and pedestrian, in my judgement the likely additional traffic movements fall well short of harming the functioning of the lane as a public right of way affording access to the countryside. Walkers are clearly warned at the bottom of the lane of the possibility of encountering vehicular traffic including HGVs, and the development is unlikely to lead to an overall high volume of traffic, albeit that there would be a relative increase in vehicles traversing the lane.
43. Thus the development conflicts with the Neighbourhood Plan in the same respects as it conflicts with the Local Plan, by producing some detriment to the character of the area and to the biodiversity interests of the Colne Valley Park. These impacts can however be substantially mitigated by the imposition of relevant planning conditions. Therefore they attract moderate weight against the development.

### **Whether very special circumstances exist to justify the development**

44. The PPTS provides that, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.
45. It appears from what I was told at the hearing that no children live or are intending to live on the site. At my site visit I observed some children's play equipment and bicycles (and some children) but was informed that these belonged to children visiting the site and not resident there. Thus the UN Convention in this respect does not appear directly engaged by my decision.
46. The appellant prays in aid of the development two particular matters. The first relates to the personal circumstances of those living or intending to live on the



- site. The second relates to an asserted shortage of Traveller sites in the area, raising questions of unmet need and the possibility (or lack) of alternative sites for the occupants. As noted, these matters are by themselves unlikely to outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.
47. For the reasons I explained at the hearing, it is not appropriate to rehearse the precise details of the personal circumstances relied upon in this publicly available decision letter, relating as they do to the particular health needs of the site's occupants. Correspondence from a Registered Nurse was provided to me (and to the Council) at the hearing. A rare heritable condition applies to several of the site's occupants, requiring access to a particular London hospital (or otherwise to one in the north east of England). Whilst the Council accept the general proposition that access to good healthcare is required, with accommodation within a reasonable travelling distance of the identified London hospital, they do not consider that this justifies the provision of this particular site.
48. This very much depends on the availability of alternative sites that are suitable for the occupiers.
49. The most recent ONS Traveller caravan count revealed 807 caravans in the Buckinghamshire area, of which 23 were on unauthorised sites and of which only five were recorded to be 'not tolerated'. The appellant took great exception to these figures at the hearing, producing a 'partial review' of unmet need that revealed there to be over 100 unauthorised caravans in the former South Bucks district alone (principally the sites at Dudley Wharf, Langley Park and Wapseys Wood).
50. The Council's response to this is that at least some of the discrepancy may be explained by:
- (i) the Dudley Wharf site being 'tolerated' (and potentially immune from enforcement action insofar as it is not permitted) and thus possibly appearing as an authorised site on the ONS figures;
  - (ii) the GTAA (Gypsy and Traveller Accommodation Assessment) of 2017 having assumed, contrary to what may have materialised, there to be no in-migration; and
  - (iii) that not all those present on those sites are accepted by the Council to be (culturally) Gypsies or Travellers and so were correctly excluded from the ONS count.
51. The agent for the appellant eventually accepted at the hearing that the identified 'non-PPTS' need for Gypsies and Travellers of 90 plots recorded by the GTAA 2017 could be correct; and could not identify any 'non-PPTS' Gypsies or Travellers whose needs were not accounted for (as distinct from necessarily being met) at the time. The Council's application of policy has led to them including the 'non-PPTS' Gypsy and Traveller needs in their calculations of the need and supply position.
52. That position, as described by the Council, is that for the former South Bucks area (considered by the Council to be the appropriate area for consideration

until the GTAA and policy position have caught up, which is not imminent) there is an outstanding need for 34 pitches in the period 2022-2027. That constitutes a need for 45 pitches with a permitted supply of 11 pitches. The Council acknowledges that it cannot demonstrate a five year supply of pitches.

53. The PPTS advises that the lack of an up-to-date five year supply of deliverable sites should be a significant material consideration when determining some planning applications; however this advice applies only to temporary permissions relating to land not in (inter alia) the Green Belt and so it gives the appellant no succour here. The PPTS does not advise further beyond saying that matters of need and personal circumstances are unlikely to amount to the very special circumstances required to justify Traveller sites in the Green Belt.

### **Planning Balance and conclusions**

54. Nonetheless here, and mindful that the harm to the Green Belt and other harm must be 'clearly' outweighed in order to be justified, I find that very special circumstances are made out.
55. I attach substantial weight to the Green Belt harm arising from the development's inappropriateness as well as the additional harm to loss of openness and the purpose of safeguarding the countryside from encroachment, as required by the Framework. Other harms, in the form of impacts on the character and appearance of the area and the Colne Valley Park and of the loss of biodiversity, also attract moderate weight, conflicting with the Local Plan for the area as well as with the Ivers Neighbourhood Plan.
56. I am however mindful that some of this harm is minimised. The development would make effective use of previously developed land, to which the PPTS advises weight should be attached. The development would result in the beneficial removal of two existing buildings, one of which is particularly large, dilapidated and unsightly. The notice does not attack all the works that have taken place to develop the site, leaving the biodiversity and landscape losses to some degree unattended whatever the outcome of the appeal, whereas the imposition of relevant planning conditions can attenuate those losses to some extent. Whilst these matters do not negate the harm that I have found, they do constrain the level of harm that results from the development as enforced against.
57. The other side of the scales, as it were, include the significant matter of the unmet need for Traveller pitches which, on the Council's own figures, suggest a meaningful shortfall. The Council inform me that 87% of the land in the former South Bucks district (which the Council urge upon me as the appropriate area for consideration) falls within the Green Belt. Although no search for any alternative sites appears to have been undertaken, with such constraints I consider it unlikely that this need could be met without some Green Belt releases. This position is anticipated by the Council's policy relating to Traveller site provision, CP4 (footnote 47).
58. Except as relating to the moderate detriment to the local environment, the remaining criteria of the Council's policy CP4 are met by the development. It has good access to the highway and to local services, is not in a high flood risk area, would allow for adequate levels of privacy and residential amenity for the occupants, provide a safe environment with adequate facilities, be compatible

with surrounding land uses and is of a manageable size. I attach considerable weight to its compliance with these other policy criteria.

59. I also attribute significant weight to the personal circumstances of the proposed occupiers of the site as revealed by the correspondence from the Registered Nurse. I accept the Council's position that this in itself does not reveal a requirement to live on this particular site; but, having reached the conclusion in relation to the likelihood of alternatives that I have, I find that the health needs of the occupants, and the ability of a settled base here to help meet those needs, nonetheless lend significant weight in favour of this particular development.
60. Thus although contrary to the development plan overall, and mindful that this combination of circumstances is said by the PPTS to be unlikely to justify the development, in this particular case I find that it does, because the weight of the countervailing considerations to the harm including to the Green Belt is clearly the greater. Thus I shall grant permission.

### **Conditions**

61. The Council suggested a number of conditions in the event that permission were to be granted, which were largely uncontroversial at the hearing. The suggested condition restricting the occupiers of the site requires some amendment in the light of *Smith*. Although giving weight to the present occupiers' personal circumstances, no personal condition is suggested by either party and I concur. A condition is required restricting the number of caravans to the five proposed. A further condition needs to refer to a layout plan to be submitted to the Council for approval. Conditions restricting external lighting and the storage of large vehicles are required in the interests of minimising the impacts of the development. A further condition is required to secure the demolition of Buildings 3 and 4 and to secure a scheme of landscape and ecological enhancement, again to be submitted to the Council for approval and implemented in accordance with the timetable approved. I shall add into this condition an express requirement that the boundary treatment of the site be considered as part of that scheme, which would include the entrance gates.

### **Overall Conclusion**

62. For the reasons given above, although the appeal fails on all legal grounds, I conclude that the appeal should succeed on ground (a) and planning permission will be granted subject to the substitution of the plan attached to the notice and to the suite of conditions set out below. The appeal on grounds (f) and (g) does not therefore need to be considered.

### **Formal Decision**

63. It is directed that the enforcement notice be corrected by omitting the plan originally attached to it and replacing it with the plan attached to this decision. Subject to this correction the appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the use of land known as The Beeches, Swan Road, Iver, Buckinghamshire SL0 9LA under Title Number BM13616 as a mixed (sui generis) use comprising residential and a caravan park subject to the following conditions:

- (1) The site shall not be occupied by any persons other than Gypsies and Travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.
- (2) No more than five caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, as amended (of which no more than three shall be a static caravan/mobile home) shall be stationed on the land at any time.
- (3) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the land.
- (4) There shall be no external lighting on the land other than in accordance with details that shall have first been submitted to and approved in writing by the local planning authority.
- (5) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 56 days of the date of the failure to meet any one of the requirements set out in (i) to (v) below:
  - (i) Within six months of the date of this permission the existing garage and store (Buildings 3 and 4 shown on the plan attached to the enforcement notice) located in the central part of the site shall have been demolished and all related materials and debris shall have been removed from the site.
  - (ii) Within six months of the date of this permission a scheme for the layout of the site, the boundary treatment of the site to include the entrance gates, and of landscape /ecological enhancement to achieve net biodiversity gain within the site shall be submitted to the Local Planning Authority for approval. It shall include the following:
    - a survey of the site and surroundings to establish, as far as possible, a baseline position against which the biodiversity net gain can be measured;
    - Tree and shrub species to reflect those found in nearby native roadside hedgerows;
    - Details of specific measures to enhance biodiversity such as bat bricks /bird boxes;
    - details of the timing of the implementation of the approved scheme and how it will be maintained and managed for the future; and
    - details of the proposed layout of the caravans on the site
    - details of the proposed boundary treatment to include entrance gates.

- (iii) Within nine months of the date of this decision the site layout, boundary treatment and landscape / ecological enhancement scheme shall have been approved by the Local Planning Authority or, if the Local Planning Authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- (iv) The approved site layout, boundary treatment and landscape / ecological enhancement scheme shall have been carried out and completed in accordance with the approved timetable and the works comprised in the scheme shall thereafter be maintained and managed for the duration of the development in accordance with the approved management scheme.

*Laura Renaudon*

INSPECTOR

**APPEARANCES**

FOR THE APPELLANT:

Joseph G Jones

Agent

FOR THE LOCAL PLANNING AUTHORITY:

Philippa Jarvis BSc (Hons) Dip TP MRTPI  
Mohammed Nadeem BSc (Hons)

Planning Consultant  
Planning Enforcement Officer

INTERESTED PERSONS:

Cllr Ciaran Beary

Local Member



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## Plan

This is the plan referred to in my decision dated: 20 February 2023

by **Laura Renaudon LLM LARTPI Solicitor**

**Land at: The Beeches, Swan Road, Iver, Bucks SL0 9LA**

**Reference: APP/N0410/C/21/3276123**

Scale: Do Not Scale

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